

**REGULAR MEETING OF THE COMMON COUNCIL
OF THE CITY OF PLATTSBURGH, NEW YORK**

December 5, 2013

5:30 P.M.

MINUTES

Present: Mayor Donald Kasprzak, Councilors Tim Carpenter (W1), George Rabideau (W3), Jim Calnon (W4), Chris Case (W5), Chris Jackson (W6)

Absent: Councilor Mark Tiffer (W2)

1. MINUTES OF THE PREVIOUS MEETING:

RESOLVED: That the Minutes of the regular meeting of the Common Council held on November 21, 2013 are approved and placed on file among the public records of the City Clerk's Office.

By Councilor Carpenter; Seconded by Councilor Calnon
Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson
(All voted in the affirmative)

2. PAYROLLS OF VARIOUS DEPARTMENTS:

RESOLVED: That the payrolls of the various Departments of the City of Plattsburgh for the week ending December 4, 2013 in the amount of \$ 255,853.15 are authorized and allowed and the Mayor and the City Clerk are hereby empowered and directed to sign warrants drawn on the City Chamberlain for the payment thereof.

By Councilor Jackson; Seconded by Councilor Carpenter
Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson
(All voted in the affirmative)

3. REPORTS OF CITY OFFICES & COMMITTEE REPORTS:

- Report of Fire and Ambulance Responses for the weeks of November 21 – December 4, 2013
- Report from the Building Inspector's Office December 3, 2013

RESOLVED: That the reports as listed are hereby ordered, received and placed on file among the public records of the City Clerk's Office.

By Councilor Rabideau; Seconded by Councilor Carpenter
Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson
(All voted in the affirmative)

4. CORRESPONDENCE & RECOMMENDATIONS FROM BOARDS: None

5. **AUDIT OF CLAIMS:**

RESOLVED: That the bills Audited by the Common Council in the amount of \$574,905.91 are authorized and allowed and the Mayor and City Clerk (where required) are hereby authorized and directed to sign warrants drawn on the City Chamberlain for the payment thereof.

By Councilor Calnon; Seconded by Councilor Carpenter
Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson
(All voted in the affirmative)

6. **PERSONS ADDRESSING COUNCIL: None**

7. **OTHER ITEMS:**

A. RESOLVED: In accordance with the request therefore the Common Council approves Dave Powell permission to advertise for Contract # 2013-21 "15% Sodium Hypochlorite trade solution WPCP and Water Filtration Plant."

By Councilor Jackson; Seconded by Councilor Rabideau
Discussion: None
Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson
(All voted in the affirmative)
ACTION TAKEN: Adopted
Follow up Action: None

B. RESOLVED: In accordance with the request therefore the Common Council approves Dave Powell permission to advertise for Contract # 2013-22 "Sodium Thiosulfate for WPCP."

By Councilor Jackson; Seconded by Councilor Calnon
Discussion: None
Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson
(All voted in the affirmative)
ACTION TAKEN: Adopted
Follow up Action: None

C. RESOLVED: In accordance with the request therefore the Common Council approves Dave Powell permission to advertise for Contract # 2013-23 "Liquid Alum for WPCP."

By Councilor Jackson; Seconded by Councilor Case
Discussion: None
Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson
(All voted in the affirmative)
ACTION TAKEN: Adopted
Follow up Action: None

D. RESOLVED: In accordance with the request therefore the Common Council approves the City Chamberlain to adjust the 2013 General Fund Budget through a transfer of funding from Assessor payroll appropriations to Assessor contractual service expense appropriations as per the attached memo. The transfer will not change the total 2013 budget.

By Councilor Rabideau; Seconded by Councilor Carpenter

Discussion: None

Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson

(All voted in the affirmative)

ACTION TAKEN: Adopted

Follow up Action: None

E. Introduced: Local Law P-2 of 2013: City of Plattsburgh Mooring Law

By Councilor: Jackson

Public Hearing Date set by Mayor: **December 19, 2013 at 5pm in the Common Council Chambers, City Hall, 41 City Hall Place, Plattsburgh, NY 12901**

F. Resolution Approving Amendment to Commercial Lease between City and CVTM

RESOLVED: An "Amendment to Commercial Lease" between CITY OF PLATTSBURGH and CHAMPLAIN VALLEY TRANSPORTATION MUSEUM, bearing a footer date of November 22, 2013 and consisting of 3 typewritten pages, which extends the lease term to February 28, 2031, is hereby approved. Further: A copy of said Amendment is ordered made a part of the minutes of this meeting.

By Councilor Calnon; Seconded by Councilor Carpenter

Discussion: None

Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson

(All voted in the affirmative)

ACTION TAKEN: Adopted

Follow up Action: None

G. RESOLVED: In accordance with the request therefore the Common Council approves the City Chamberlain to reserve the 2013 SUNY Aerial Fire Equipment Contribution of \$21,500.00 as well as the reserving of 2013 revenue in the amount of \$21,500.00 to the Aerial Fire Equipment Reserve as a matching contribution

By Councilor Jackson; Seconded by Councilor Rabideau

Discussion: None

Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson

(All voted in the affirmative)

ACTION TAKEN: Adopted

Follow up Action: None

H. RESOLVED: In accordance with the request therefore the Common Council approves the City Chamberlain to make budget amendments to the Water and Sewer Funds to authorize transfer of funds previously approved in 2013 Capital Project Resolutions.

By Councilor Carpenter; Seconded by Councilor Case

Discussion: None

Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson

(All voted in the affirmative)

ACTION TAKEN: Adopted

Follow up Action: None

I. RESOLVED: In accordance with the request therefore the Common Council approves Laura Carmichael to hold the Cabin Fever Reliever at the City Recreation Center to benefit the Autism Alliance of Northeastern New York on February 1, 2014.

By Councilor Carpenter; Seconded by Councilor Case

Discussion:

Councilor Carpenter asked Recreation Superintendent Steve Peters to fill the Council in on all the events.

Recreation Superintendent Steve Peters explained that these are all returning events from years passed and provided the details.

Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson

(All voted in the affirmative)

ACTION TAKEN: Adopted

Follow up Action: None

J. RESOLVED: In accordance with the request therefore the Common Council approves Bonnie Black to hold the BHSN Kids' Carnivale at the City Recreation Center on Saturday March 8, 2014.

By Councilor Carpenter; Seconded by Councilor Calnon

Discussion: None

Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson

(All voted in the affirmative)

ACTION TAKEN: Adopted

Follow up Action: None

K. RESOLVED: In accordance with the request therefore the Common Council approves Laura Carmichael to hold the Autism Awareness Walk at US Oval to benefit the Autism Alliance of Northeastern New York on Saturday, April 26, 2014.

By Councilor Case; Seconded by Councilor Carpenter

Discussion: None
Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson
(All voted in the affirmative)
ACTION TAKEN: Adopted
Follow up Action: None

L. RESOLVED: In accordance with the request therefore the Common Council approves Karen Wendling to hold the March of Dimes March for Babies at Penfield Park on September 27, 2014.

By Councilor Case; Seconded by Councilor Calnon
Discussion: None
Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson
(All voted in the affirmative)
ACTION TAKEN: Adopted
Follow up Action: None

M. RESOLVED: In accordance with the request therefore the Common Council approves the City Chamberlain to adjust the 2013 General Fund Budget through a transfer of funding from Contingency & Celebrations appropriations in the General Fund to Judgments & Claims appropriations as per the attached memo. The transfer will not change the total 2013 budget.

By Councilor Rabideau; Seconded by Councilor Jackson
Discussion: None
Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson
(All voted in the affirmative)
ACTION TAKEN: Adopted
Follow up Action: None

N. RESOLUTION – APPROVAL OF HOME GRANT SUBORDINATION 14 RIVERSIDE AVENUE

RESOLVED: In accordance with the request therefore the Common Council approves the homeowner's request that the City subordinate the HOME program mortgage on 14 Riverside Ave. to a new mortgage to be made by Glens Falls National Bank in the principal amount of \$71,000, and the Corporation Counsel is authorized to sign the Subordination Agreement on behalf of the City upon his determination that documentation provided by the homeowner meets NY DHCR requirements.

By Councilor Calnon; Seconded by Councilor Case
Discussion: None
Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson
(All voted in the affirmative)
ACTION TAKEN: Adopted
Follow up Action: None

8. TRAVEL REQUEST:

A. RESOLVED: In accordance with the request therefore the Common Council approves reimbursement to Brian Guimond for expenses incurred completing the second class required to qualify for a Grade IA Water Treatment Plant Operator certification in the total amount of \$581.06

By Councilor Jackson; Seconded by Councilor Case

Discussion: None

Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson

(All voted in the affirmative)

ACTION TAKEN: Adopted

Follow up Action: None

9. RESOLUTIONS FOR INITIAL CONSIDERATION: None

10. NEW BUSINESS:

Councilor Calnon said there will be a budget session after meeting tonight.

Motion to Adjourn by Councilor Jackson; Seconded by Councilor Case

Roll call: Councilors Carpenter, Rabideau, Calnon, Case, Jackson

(All voted in the affirmative)

MEETING ADJOURNED: 5:40pm

AMENDMENT TO COMMERCIAL LEASE

This Amendment to Commercial Lease (the "Amendment") is entered into and made effective as of the ____ day of _____, 2013 (the "Effective Date") by and between **CITY OF PLATTSBURGH**, a New York municipal corporation with offices at 41 City Hall Place, Plattsburgh, New York 12901 (the "Lessor") and **CHAMPLAIN VALLEY TRANSPORTATION MUSEUM**, a provisionally chartered New York educational corporation, with offices at P.O. Box 2842, Plattsburgh, New York 12901. Lessor and Lessee may be hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, the Lessor and Lessee are parties to a certain Commercial Lease Agreement dated March 1, 2006 (the "Lease") (all capitalized terms not defined herein are as defined in the Lease); and

WHEREAS, pursuant to the terms and provisions of the Lease, Lessee is currently leasing and occupying certain property located at 12 Museum Way, Plattsburgh, New York, consisting of approximately [insert number of square feet] (the "Premises"); and

WHEREAS, the Initial Term of the Lease expires on February 28, 2016; and

WHEREAS, the Lessee has the option to renew the Lease for three (3) consecutive five (5) year terms pursuant to the terms and provisions of the Lease (the "Option Period"); and

WHEREAS, Lessor and Lessee each desire to extend the term of the Lease for the length of the Option Period such that the Lease would terminate on February 28, 2031.

NOW THEREFORE, for mutual consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to modify and amend the Lease as follows:

1. **TERM:** Section 3 of the Lease is hereby deleted in its entirety and replaced with the following:

At the time the Lease was executed, the Initial Term was for ten (10) years, commencing on March 1, 2006 and ending on February 28, 2016. The Lessee has the option to renew the Lease for three (3) consecutive five (5) year terms (the "Option Period"). The term is hereby extended for the Option Period, which shall commence on February 28, 2016 and terminate on February 28, 2031. Lessee shall be permitted to terminate this Lease upon sixty (60) days prior written notice to Lessor should Lessee cease to operate the Premises for museum purposes, on account of non-renewal of Lessee's museum charter, or otherwise financial inability to do so.

1. (a) Lessor and Lessee hereby acknowledge and agree that by signing this Amendment, Lessee's option to renew the Lease for the Option Period is hereby exercised.

November 22, 2013

2. **OPTIONS TO RENEW:** Section 32 of the Lease is hereby deleted in its entirety and replaced with the following:

During the Option Period, the following terms and conditions apply:

32.1 Rent. The rent for years six (6) through ten (10) of the Initial Term and during the Option Period shall be ten percent of the Lessee's gross income, excluding gifts, donations and grants to the museum. The Rent shall be paid in advance in quarterly annual installments based upon the previous year's gross income. Within thirty (30) days of the end of the Lessee's fiscal year, and the compilation of income statements for such year, the Rent paid shall be adjusted and increased or decreased based upon the actual gross income for such year.

32.2 Performance. It is a condition of the Lessee's right to continue to lease the Premises for years six (6) through ten (10) of the Initial Term and during the Option Period that it meet or exceed the following performance standards:

32.2.1 That the museum have been open to the public a minimum of 1000 hours per year for the two years preceding the commencement of year six (6) of the Initial Term.

32.2 That by the end of the fifth (5th) year of the Initial Term, no less than 50% of the gross floor area of the Premises (which includes approximately 29,000 square feet of indoor floor space plus outdoor space adjacent to the buildings used for permanent display of vehicles) be devoted to museum displays; that by the end of the 8th year of the Initial Term, no less than 66 2/3% of the floor area of the Premises be devoted to museum displays and shall continue until the end of the lease term, including the Option Period. The term "museum display" is intended to include museum operations such as gift shop, office, theatre. Conference center and other areas needed and utilized for the operation of the museum.

32.2.3 That each year during the Initial Term and Option Period, the Lessee provide a copy of its annual report to the New York State Education Department to the Lessor within thirty (30) days of filing same.

The performance requirements set forth in Section 32.2 are also required for LESSEE's continued lease of the Premises during the Initial Term and Option Period and Lessor shall have the right to terminate this Lease, subject to the terms herein, if Lessee fails to meet the above requirements.

3. **OPTION TO PURCHASE:** Section 33 of the Lease is hereby amended by deleting the first sentence thereof and replacing it with the following:

Lessor agrees, that if then permitted under New York law, at any time during the Option Period, upon ninety (90) days written notice, it will permit the Lessee to

purchase the Premises at its then fair market value, less the cost of any capital improvements made to the Premises by the Lessee.

4. **CONSTRUCTION OF AMENDMENT:** Any terms, conditions and/or provisions of the Lease which are not modified herein shall remain in full force and effect throughout the term of the Lease and throughout any extended term thereof. If any term, condition or provision of the Lease is in conflict with any term, condition or provision of this Amendment, the conflicting term, condition or provision of this Amendment shall control. The defined and capitalized terms used in this Amendment shall have the same meaning and definition as set forth in the Lease, except as may be otherwise expressly provided for herein. All references in the Lease and in this Amendment to the "Lease" shall be construed to mean the Lease (and all exhibits attached to the Lease), as amended and supplemented by this Amendment.
5. **COUNTERPARTS:** This Amendment may be executed in any number of counterparts, each counterpart for all purposes being deemed an original, and all such counterparts shall together constitute only one and the same agreement. Facsimile or scanned copies are acceptable as an original.

IN WITNESS WHEREOF, the Parties have duly executed this Amendment to Commercial Lease as follows:

LESSOR: CITY OF PLATTSBURGH

Date

By _____
Donald Kasprzak, Manager

**LESSEE: CHAMPLAIN VALLEY
TRANSPORTATION MUSEUM**

Date

By _____
Anthony Vaccaro, President

November 22, 2013